

**MINUTES OF
FAIRFAX COUNTY PLANNING COMMISSION
THURSDAY, APRIL 24, 2003**

PRESENT: John R. Byers, Mount Vernon District
Frank A. de la Fe, Hunter Mill District
Janet R. Hall, Mason District
Suzanne F. Harsel, Braddock District
John B. Kelso, Lee District
Ronald W. Koch, Sully District
Ilryong Moon, Commissioner At-Large
Peter F. Murphy, Jr., Springfield District
Linda Q. Smyth, Providence District
Laurie Frost Wilson, Commissioner At-Large

ABSENT: Walter L. Alcorn, Commissioner At-Large
Joan M. DuBois, Dranesville District

//

The meeting was called to order at 8:17 p.m. by Chairman Peter F. Murphy, Jr., in the Board Auditorium of the Fairfax County Government Center at 12000 Government Center Parkway, Fairfax, Virginia 22035.

//

COMMISSION MATTERS

Commissioner Byers MOVED THAT THE DECISION ONLY ON RZ/FDP-2002-MV-037, NATIONAL CAPITAL LAND AND DEVELOPMENT, INC., BE FURTHER DEFERRED TO A DATE CERTAIN OF JUNE 12, 2003.

Commissioner Hall seconded the motion which carried unanimously with Commissioners Alcorn and DuBois absent from the meeting.

//

Commissioner Murphy MOVED THAT THE PUBLIC HEARING ON SE-2002-SP-048, 11725 LEE HIGHWAY, LLC, BE DEFERRED TO A DATE CERTAIN OF JUNE 11, 2003.

Commissioner Byers seconded the motion which carried unanimously with Commissioners Alcorn and DuBois absent from the meeting.

//

Commissioner Smyth MOVED THAT THE DECISION ONLY ON S02-II-V1, OUT-OF-TURN PLAN AMENDMENT, BE DEFERRED TO A DATE CERTAIN OF MAY 7, 2003.

Commissioner Byers seconded the motion which carried unanimously with Commissioners Alcorn and DuBois absent from the meeting.

//

PCA-87-C-088/DPA-87-C-088 - JEFFREY FINANCIAL GROUP, INC.

PCA-93-H-004/FDP-93-H-004-2 - JEFFREY FINANCIAL GROUP, INC. (Decisions Only)
(The public hearing on these applications was held on April 10, 2003. A complete verbatim transcript of the decision made is included in the date file.)

Commissioner de la Fe MOVED THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF PCA-87-C-088, SUBJECT TO THE PROFFERS DATED APRIL 24, 2003.

Commissioner Koch seconded the motion which carried by a vote of 8-0-2 with Commissioners Byers and Hall abstaining; Commissioners Alcorn and DuBois absent from the meeting.

Commissioner de la Fe MOVED THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF DPA-87-C-088, SUBJECT TO THE APPROVAL OF PCA-87-C-088.

Commissioner Koch seconded the motion which carried by a vote of 8-0-2 with Commissioners Byers and Hall abstaining; Commissioners Alcorn and DuBois absent from the meeting.

Commissioner de la Fe MOVED THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF PCA-93-H-004, SUBJECT TO THE AFOREMENTIONED PROFFERS DATED APRIL 23, 2003.

Commissioner Koch seconded the motion which carried by a vote of 8-0-2 with Commissioners Byers and Hall abstaining; Commissioners Alcorn and DuBois absent from the meeting.

Commissioner de la Fe MOVED THAT THE PLANNING COMMISSION APPROVE FDP-93-H-004-2, SUBJECT TO THE APPROVAL OF PCA-93-H-004.

Commissioner Koch seconded the motion which carried by a vote of 8-0-2 with Commissioners Byers and Hall abstaining; Commissioners Alcorn and DuBois absent from the meeting.

//

SE-2002-PR-042 - FEDERAL REALTY INVESTMENT TRUST (Decision Only)

(The public hearing on this application was held on April 10, 2003. A complete verbatim transcript of the decision made is included in the date file.)

Commissioner Smyth MOVED THAT THE PLANNING COMMISSION RECOMMEND APPROVAL OF SE-2002-PR-042, FEDERAL REALTY INVESTMENT TRUST, SUBJECT

TO THE DEVELOPMENT CONDITIONS DATED APRIL 18, WITH CONDITION NUMBER 12 REVISED TO READ: "NO SIGNS OF ANY TYPE, INCLUDING BUT NOT LIMITED TO POPSICLE STYLE PAPER OR CARDBOARD SIGNS, WHICH ARE PROHIBITED BY ARTICLE 12 OF THE ZONING ORDINANCE, AND NO SIGNS WHICH ARE PROHIBITED BY CHAPTER 7 OF TITLE 33.1 OR CHAPTER 8 OF TITLE 46.2 OF THE *CODE OF VIRGINIA*, SHALL BE PLACED ADJACENT TO OR WITHIN THE SHOPPING CENTER, THE ADJACENT CEMETERY OR ON THE RIGHT-OF-WAY ABUTTING THE SHOPPING CENTER. ADDITIONALLY, NO PROMOTIONAL SIGNAGE SHALL BE PERMITTED ON ANY LIGHT POLES ADJACENT TO OR WITHIN THE SHOPPING CENTER, THE ADJACENT CEMETERY, OR ON THE RIGHT-OF-WAY ABUTTING THE SHOPPING CENTER; HOWEVER, THIS SHALL NOT PRECLUDE THE DISPLAY OF SEASONAL BANNERS OR DECORATIVE FLAGS FOR THE SHOPPING CENTER. THE APPLICANT AND ITS SUCCESSORS AND ASSIGNS SHALL DIRECT ITS TENANTS AND LESSEES TO ADHERE TO THIS CONDITION AND SHALL REGULARLY MONITOR THE SITE AND THE SHOPPING CENTER FOR ADHERENCE TO THIS CONDITION."

Commissioner Byers seconded the motion which carried by a vote of 8-0-2 with Commissioners Byers and Hall abstaining; Commissioners Alcorn and DuBois absent from the meeting.

//

SE-2002-MA-034 - TEO CHEW ASSN. OF GREATER WASHINGTON, INC. (Decision Only)
(The public hearing on this application was held on April 23, 2003. A complete verbatim transcript of the decision made is included in the date file.)

Commissioner Hall MOVED THAT THE PLANNING COMMISSION RECOMMEND APPROVAL OF SE-2002-MA-034 TO THE BOARD OF SUPERVISORS, SUBJECT TO THE PROPOSED DEVELOPMENT CONDITIONS DATED APRIL 23, 2003, WITH THE EXCEPTION OF DEVELOPMENT CONDITION NUMBER 5, WHICH WILL BE MODIFIED TO INCLUDE SUNDAY HOURS OF OPERATION FROM 1:00 P.M. TO 4:00 P.M.

Commissioner Koch seconded the motion which carried by a vote of 9-0-1 with Commissioner Byers abstaining; Commissioners Alcorn and DuBois absent from the meeting.

Commissioner Hall MOVED THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD APPROVAL OF A REQUEST TO MODIFY THE TRANSITIONAL SCREENING AND BARRIER REQUIREMENTS CONSISTENT WITH THAT SHOWN ON THE SPECIAL EXCEPTION PLAT AND THE PROPOSED DEVELOPMENT CONDITIONS.

Commissioner Koch seconded the motion which carried by a vote of 9-0-1 with Commissioner Byers abstaining; Commissioners Alcorn and DuBois absent from the meeting.

//

FS-V03-5 - FAIRFAX COUNTY WATER AUTHORITY

Rt. 1 from Huntington Ave. to Ft. Hunt Rd.

Commissioner Byers MOVED THAT THE PLANNING COMMISSION APPROVE FS-V03-5.

Commissioners Hall and Wilson seconded the motion which carried unanimously with Commissioners Alcorn and DuBois absent from the meeting.

//

456A-C86-5-1 - FAIRFAX COUNTY POLICE DEPARTMENT, 3725 Stonecroft Boulevard

Commissioner Koch MOVED THAT THE PLANNING COMMISSION CONCUR WITH STAFF'S RECOMMENDATION THAT THE PROPOSED USE, AS SET FORTH IN STAFF REPORT 456A-C86-5-1, BE DETERMINED TO BE A "FEATURE SHOWN."

Commissioner Byers seconded the motion which carried unanimously with Commissioners Alcorn and DuBois absent from the meeting.

//

ORDER OF THE AGENDA

Secretary Harsel established the following order for the agenda items:

1. RZ-2002-MV-040/FDP-2002-MV-040 - SPRING HILL SENIORS, LLC
2. SUBDIVISION ORDINANCE AMENDMENTS (ILLEGAL LOTS)
3. S02-II-F1 - OUT-OF-TURN PLAN AMENDMENT

This order was accepted without objection.

//

RZ-2002-MV-040/FDP-2002-MV-040 - SPRING HILL SENIORS, LLC - Appls. to rezone from R-C to PDH-12 to permit age restricted residential development at a density of up to 9.44 dwelling units per acre (du/ac) and approval of the conceptual and final development plans. Located on the S. side of Silverbrook Rd., approx. 1,000 ft. N. of its intersection with Plaskett La. on approx. 46.80 ac. of land. Comp. Plan Rec: Redevelopment of former Lorton prison facilities. Tax Map 106-4 ((1)) pt. 54. MT. VERNON DISTRICT. PUBLIC HEARING.

Keith Martin, Esquire, with Walsh, Colucci, Lubeley, Emrich and Terpak, PC, reaffirmed the affidavit dated March 31, 2003. There were no disclosures by Commission members.

Chairman Murphy recognized James Zook, Director, Department of Planning and Zoning (DPZ), for an opening statement.

Mr. Zook stated that the subject applications provided an opportunity to move forward with implementation of the plan for redevelopment and reuse of the former District of Columbia Department of Corrections (DCDC) facility in Lorton. He said the rezoning application for this property, approved in 2001, provided for the preservation of 800 acres of land in open space, which was part of the vision of the citizens who worked on the plan to redevelop this area. In addition, he noted that the application before the Commission tonight included a provision for the development of a high school under a public/private partnership, as well as the development of a public golf course to be administered by the Fairfax County Park Authority. He then introduced Mr. Leonard Wales, with the Office of Management and Budget.

Mr. Wales stated that the acquisition of the DCDC property provided an opportunity to build a South County high school three years earlier than planned, with a projected completion date of September 2005. He said proceeds from the sale of adjacent property for private development would be used for the construction of the high school. He said the construction of the high school, the development of the golf course, and the private redevelopment of land adjacent to the school site was a complex undertaking that had to move forward concurrently in order for the financing to be completed. He noted that every phase of the plan had been accelerated with the approval of the concept and contracts by the Board of Supervisors on April 7, 2003, approval of the contract for the design of the golf course by the Park Authority on April 23, 2003, approval of the construction contract for the school by the School Board tonight; and approval of the rezoning application before the Planning Commission tonight. He said the Board of Supervisors was scheduled to take final action on the entire package on May 5, 2003, and that final financing arrangements would take place on May 20, 2003. He also noted that closing on the purchase of the property was scheduled in early June, at which time construction of the high school could begin, with pricing and closing on the bonds shortly thereafter. He emphasized that it was important to understand that each of the three components of the plan was interdependent.

Commissioner Byers commented that a "feature shown" application for the high school was pending, but said he was reluctant to act on it because it contained no details of the construction to present to the Lorton community. In response, Mr. Zook said he did not know whether the contract being presented to the School Board tonight had a site plan associated with it, although one had been submitted for review. Mr. Zook added that the project had been accelerated because the citizens of Lorton had indicated they wanted the high school to be opened by September 2005.

In response to a question from Commissioner Harsel, Mr. Zook said he did not know if the School Board had presented its plan to the Lorton community.

Responding to a question from Commissioner Wilson, Mr. Peter Braham, Zoning Evaluation Division, DPZ, said the Zoning Ordinance required that a minimum of five adjacent property owners be notified as part of the site plan review process, but he did not know if this had in fact

been done. Commissioner Wilson noted that she was an adjacent property owner and had received notification by the Park Authority, but not from the School Board. Mr. Zook said he would look into this matter and report back to the Commission.

Mr. Braham presented the staff report, a copy of which is in the date file. He noted that staff recommended approval of the applications.

Responding to a question from Commissioner Wilson, Mr. Zook said the subject property had always been intended for sale to the private sector to offset the cost of the high school and other redevelopment costs the County might incur.

Mr. Braham responded to questions from Commissioner Wilson about the greenway trail, the public comment period on the watch tower and other historic structures, noise attenuation, and lighting. Mr. Braham also responded to a question from Commissioner Smyth about tree preservation.

Mr. Martin stated that the applicant had been selected last fall as the highest rated bidder to develop a senior living facility on property which had been a part of the former District of Columbia prison site. He noted that thirty days after the Board of Supervisors approved the applications, the County would sell the property to the applicant with the proceeds going directly to the South County high school project. He said the proposed Spring Hill Senior Center, to be located along Silverbrook Road, would consist of single family attached and detached dwellings and multi-family units. He described the design and size of the proposed dwellings and said amenities would include a clubhouse, a pool, and an extensive pedestrian system linking to Laurel Hill greenway. He pointed out that the residents of the single family attached and detached homes would have access to the facilities located in the multi-family building which would include a communal dining room, barber and beauty shops, and a post office facility. He said the senior living facility would have on-site management 24 hours a day to provide for their needs. In addition, he said the residents of the independent dwellings would have first priority for vacancies occurring in the supported living center. He said access to the development would be provided by two entrances off Silverbrook Road and that it would be gated to provide security for the residents as well as to eliminate the nuisance of high school parking. He pointed out that this project was a collaborative effort by senior County staff, the Park Authority, the School Board, the Architectural Review Board (ARB), the Lorton Historical Society, the Virginia Department of Historic Resources, and the applicant. He said it had the favorable recommendation of the Federation of Lorton Communities and staff. He noted that the project had received a tied vote from the Mount Vernon Council's Planning and Zoning Committee, therefore, no recommendation had been made. He concluded by saying that the goal to create a senior community, in conformance with the Comprehensive Plan, in order to fund the new high school had been accomplished.

In response to a question from Commissioner Byers, Mr. Martin said that the Comprehensive Plan recommended that the redevelopment of the DCDC site include a graduated care facility, not a graduated health care facility, and pointed out that the proposed development would provide different levels of housing, graduating to a senior living facility with communal dining, a

24 hour on-site manager who could arrange for services on an as needed basis, and shuttle service to off-site services. Commissioner Byers said he thought the citizens who wrote the Comprehensive Plan intended for the facility to provide graduated health care for seniors onsite.

Responding to a concern expressed by Commissioner Byers, Mr. Martin said there was a demand for single family homes in a senior living development which did not require a lot of maintenance.

In response to another concern of Commissioner Byers, Mr. Martin said that children under 18 years of age would not be allowed to live in the development due to a requirement of the Fair Housing Act for an age-restricted community.

Commissioner Harsel commented that in some cases it was necessary for grandparents to care for their grandchildren, therefore, this age restriction should be made clear to prospective buyers.

In response to a question from Commissioner Harsel, Mr. Eddie Byrne, with KSI, said only the adaptive reuse units adjacent to the Laurel Hill greenway would have restrictions on the storage of barbeque grills, bicycles, etc.

In response to a question from Commissioner Hall, Mr. Martin said the senior facility staff would coordinate services needed by residents from a list of providers.

Responding to a question from Commissioner de la Fe, Mr. Martin said the community would be gated to protect against intrusion from the public uses of adjacent property. Commissioner de la Fe said the only reason he could see for the development to be gated was to maintain the historic character of the property as a prison.

In response to a question from Commissioner Wilson, Mr. Martin said that the support of the Federation of Lorton Communities was conditioned upon the applicant consulting with them on the final architectural elevations, subject to approval by the ARB. Mr. Martin and Mr. Byrne responded to other questions from Commissioner Wilson about ownership of the facilities, the closeness of the houses, and the age restriction.

Responding to a question from Commissioner Smyth, Mr. Byrne said that Proffer Number 10b. could not be revised to require that purchasers be advised of the requirement of the Homeowners Association (HOA) to maintain private streets, landscaping, clubhouse, pool, trash collection, and open space areas, prior to entering into a sales contract because HOA documents were too lengthy to hand out to everyone who visited the sales office. He said that the documents would be given to purchasers at the time they entered into a contract and pointed out that they would have three days to cancel.

Addressing the issue of the closeness of the homes, Chairman Murphy said density was needed in order to fund the new high school, and that buyers could decide for themselves if they wanted to live in houses close to each other.

In response to a question from Commissioner Moon, Mr. Martin said the amount of money to be contributed by the applicant for the construction of the school was not disclosable until after the Board of Supervisors approved the development on May 5, 2003.

Chairman Murphy called the first listed speaker and recited rules for testimony before the Commission.

Mr. Neal McBride, 8105 Winter Blue Court, Springfield, on behalf of the South Run Coalition, the South County Schools Alliance, the Newington Forest Community Association, and the Laurel Hill Planning Task Forces, expressed support for the applications, saying that it was the product of a very creative public/private partnership that met the needs of the South County community and was in conformance with the Comprehensive Plan. (A copy of his remarks is in the date file.)

Ms. Queenie Cox, 2920 Douglas Street, Alexandria, Mt. Vernon Council of Citizens Associations, expressed opposition to the proposed development due to concerns about the design and layout of the proposed units, traffic and safety issues, and a gated community. She requested that the applications be denied or that the decision be deferred to allow time for the Planning and Zoning and Transportation Committees to review and comment on the project. (A copy of her remarks is in the date file.)

In response to a question from Chairman Murphy, Ms. Cox said that some members of the Mount Vernon Council felt that they had not been given enough information to vote on these applications. Commissioner Wilson said that the residents most affected by this development had had ample opportunity to review and comment on the project and that the developer had met on several occasions with the Federation of Lorton Communities.

Responding to a question from Chairman Murphy, Mr. Zook said that if the Board of Supervisors denied the application, the construction of the South County high school would be in jeopardy.

Ms. Diane Donley, 3508 Riverwood Road, Alexandria, Chairman of the Planning and Zoning Committee of the Mount Vernon Council of Citizens Association, said she had serious concerns about the design and layout of the proposed homes, maintenance of the private roads, and a reduction in the size of the tree canopy.

Commissioner Hall said she was in favor of gated communities for senior citizens. Ms. Cox said her objection to a gated development was based on remarks made by senior citizens at meetings of the Mount Vernon Council.

Mr. John Fedorshik, 9000 Ridgely Drive, Lorton, President, Federation of Lorton Communities, said the Lorton community overwhelmingly supported the proposed development. He said the location of the property was not suitable for a facility offering a full spectrum of graduated care for seniors because it was not close enough to a hospital. He urged the Commission not to defer a decision on these applications which would further delay the progress which had been made

over the years to return the prison property to the citizens of Fairfax County and to build a South County high school.

In response to a question from Commissioner Byers, Mr. Fedorshik assured him that the citizens of Lorton would have no objection if he approved the "feature shown" determination for the high school. Mr. Fedorshik pointed out that the new high school would be similar to Westfield High School in the Sully District, and that he had been working with the ARB to refine some of the exterior features of the school.

Commissioner Kelso cautioned Mr. Fedorshik not to impose too many regulations for the design of the new school which could limit the flexibility of the ARB.

Commissioner Hall requested that Mr. Zook provide Mr. Fedorshik with copies of the "feature shown" determination request for the high school and the golf course to disseminate to the community.

Ms. Irma Clifton, 8912 Ox Road, Lorton, said while she supported the proposed development, she was opposed to the demolition of the watch tower. She said she did not agree that it was an eyesore and a depressing reminder of the property's history as a prison, and believed the tower should remain as a focal point of the surrounding greenspace. She added that with landscaping and historical signage it could become an attractive landmark and interpretive point.

Ms. Elizabeth Bradsher, 9215 Silverline Drive, Fairfax Station, said she started the drive for a South County high school in 1997 and the proposed development offered a unique opportunity to bring this project to fruition. She said this would be the first school, not only in the County, but in the State, to be built by a public/private partnership. She urged the Commission to recommend approval of the applications.

Commissioner Wilson noted that cash proffer funds grew out of efforts by Ms. Bradsher to raise money for critically needed schools in the South County area.

There were no further speakers. Therefore, Chairman Murphy called upon Mr. Martin for a rebuttal statement.

Mr. Martin said it was unfortunate that the members of the Mount Vernon Council felt they had not been given enough information about the proposed development, but pointed out that Ms. Donley had been provided with the applicant's plan. He noted that the Comprehensive Plan language, developed by citizens of the Lorton area, recommended that a senior center be located next to the high school. He explained that the development would be well landscaped, and because the tree cover was related to the existing vegetation, a waiver of the required fifteen percent tree cover was appropriate. He said although the ARB voted not to demolish the guard tower at the present time, they reserved the right to request demolition at a later date due to a concern about whether or not it was appropriate to saddle the HOA with the ownership and maintenance of the tower, or if it should be maintained and owned by the County.

In response to a question from Commissioner Byers, Mr. Martin said the facility for residents 62 years of age and over would be owned and managed by KSI, as a private business venture, although he could not guarantee that this arrangement would exist in perpetuity. Responding to another question from Commissioner Byers, Mr. Martin said if the HOA wanted to convert the facility to an assisted living facility, it could be done if the owner agreed.

Commissioner Wilson commented that the concern expressed by Ms. Donley about the cost of maintaining the private streets was a valid one, and pointed out that the cost of maintaining the tower would be nothing in comparison.

Responding to a question from Commissioner Harsel, Mr. Martin said there would be a total of 442 residential units, 80 of which would be located in the senior facility.

In response to a question from Commissioner Smyth, Mr. Martin said the development would have 24 affordable dwelling units.

There were no further comments or questions from the Commission, and staff had no closing remarks, therefore, Chairman Murphy closed the public hearing and recognized Commissioner Byers for action on these applications. (A verbatim excerpt is in the date file.)

//

Commissioner Byers MOVED THAT THE DECISION ONLY ON RZ AND FDP-2002-MV-040 BE DEFERRED TO A DATE CERTAIN OF APRIL 30, 2003, WITH THE RECORD REMAINING OPEN FOR WRITTEN COMMENT.

Commissioners Wilson and Smyth seconded the motion which carried unanimously with Commissioners Alcorn and DuBois absent from the meeting.

//

The Commission recessed at 10:50 p.m. and reconvened at 11:10 p.m. in the Board Auditorium.

//

SUBDIVISION ORDINANCE AMENDMENTS (ILLEGAL LOTS) -

To amend Chapter 101 (Subdivision Ordinance) of the *Code of the County of Fairfax* to address issues related to the validation, without the requirement of approval of a plat, of lots that were not legally created after August 31, 1947. Two different options are proposed.
PUBLIC HEARING.

Commissioner Moon announced that he would defer a decision on this matter after the close of the public hearing to May 1, 2003.

Mr. John Friedman, Department of Public Works and Environmental Services (DPWES), introduced Michelle Brickner, Director, Office of Site Development Services, DPWES, Patrick Taves, Esquire, Deputy County Attorney, and John Foster, Esquire, Assistant County Attorney. Mr. Friedman presented the staff report, a copy of which is in the date file. He noted that staff recommended approval of Option 2 as found on page 4 of the staff report.

Mr. Friedman responded to a question from Commissioner Wilson about staff's rationale for recommending that Option 2 be adopted. Mr. Taves responded to a question from her about the costs and length of time involved in the validation process for an undeveloped lot under Options 1 and 2.

Chairman Murphy called the first listed speaker.

Mr. John Savage, 3828 Gibbs Street, Alexandria, said he lived in the home he grew up in which his family had owned since 1959, but was unable to make any changes to the original footprint because the County had determined in 1999 that the lot was illegal.

Jerome Baker, Esquire, 13122 Lazy Glen Court, Herndon, representing the owners of 2719 Chain Bridge Road, said none of the proposed options would remedy the illegal lot designation of the property owned by his clients. He suggested three revisions to the Subdivision Ordinance, as outlined in his handout, a copy of which is in the date file.

Ms. Sara Kroll, 8569-E Sudley Road, Manassas, Land Design Consultants, Inc., said she strongly supported Option 1. She said the validation process under Option 2 would be expensive and lengthy for the average property owner and would penalize those owners who had not constructed homes on their lots.

James Hart, Esquire, 6504 Trillium House Lane, Centreville, also spoke in favor of Option 1. He said it was obvious the County erred in its recent reinterpretation of the Ordinance and Option 2 would perpetuate the problem.

In response to a question from Commissioner Hall, Mr. Taves said although he was not familiar with the particular situation described by Mr. Baker, one solution might be to rezone the property.

Responding to a question from Commissioner Moon, Mr. Taves said he would arrange for a representative of the Department of Tax Administration (DTA) to appear before the Commission on May 1, 2003 to provide information on how buildable and non-buildable lots were assessed.

In response to another question from Commissioner Moon, Mr. Taves said the Clerk of the Circuit Court advised him several months ago that if the owner of an undeveloped lot divided his property by metes and bounds and attached a plat, his office would accept it for recordation because he did not have the expertise or the staff to determine if it met Ordinance requirements. Mr. Taves noted that part of the problem with illegal lots was the fact that they were being recorded in the Clerk's Office and not by DPWES. Mr. Taves said a concerted effort was going

to be made by the DTA and DPWES to identify illegal lots when they were recorded and to notify the owners of that fact so it could be corrected, as warranted.

Responding to another question from Commissioner Moon, Mr. Taves said one of the problems with Option 1 was that it would allow an owner to record a plat and create a legal lot without being required to provide improvements to it.

Mr. Than Nguyen, 10804 Oak Wilds Court, Burke, said he bought property at 6601 Lee Chapel Road in 2001 with the intention of building a house on it, only to discover, after he had been given assurance that the site plan would be approved, that it was considered to be an illegal lot. He proposed that properties which were considered legal up until the time the Ordinance was reinterpreted be automatically validated. He said he was gratified to see that the Planning Commission and the Board of Supervisors were holding public hearings on this matter, although he could not understand why such hearings had not taken place before the decision to reinterpret the Ordinance had been made. He said this would have spared innocent owners the financial and emotional burdens of owning illegal lots.

Mr. John Thillmann, Landmark Communities, 5252 Cherokee Avenue, Alexandria, aligned himself with the position of Mr. Hart. He cited an example of an illegal lot subdivision which created a burdensome situation for the owners. He said taxes collected over the years on inflated assessments of these lots were far more than what it would cost to the County to validate them.

In response to a question from Commissioner de la Fe, Mr. Thillmann said Option 1 would solve the situation he cited.

Nancy Gibb, Esquire, said she was also in favor of Option 1.

In response to a question from Commissioner Wilson, Ms. Gibb said she thought a cutoff date for Option 1 of 1998 would be the most fair, although she could understand the rationale for an earlier cutoff date.

There were no further speakers. Chairman Murphy called upon staff for closing comments.

Mr. Taves noted that none of the lots referred to by the speakers could be validated under Option 2 because houses were either located on them or had been demolished, with the exception of the case cited by Mr. Baker. He said in that case, the property would have to be rezoned.

Responding to a question from Commissioner Moon, Mr. Taves said the Planning Commission did not have the authority to waive Zoning Ordinance requirements.

Commissioner Murphy commented that the reason the Board of Supervisors reauthorized the subject amendments was due to the fact that a solution to the problem was being diligently pursued.

There were no further comments or questions from the Commission, therefore, Chairman Murphy closed the public hearing and recognized Commissioner Moon for action on this item. (A verbatim excerpt is in the date file.)

//

Commissioner Moon MOVED TO DEFER THE DECISION ONLY ON THE PROPOSED SUBDIVISION ORDINANCE AMENDMENTS RELATED TO ILLEGAL LOTS, WITH THE RECORD REMAINING OPEN, TO A DATE CERTAIN OF MAY 1, 2003.

Commissioner Smyth seconded the motion which carried unanimously with Commissioner Byers not present for the vote; Commissioners Alcorn and DuBois absent from the meeting.

//

The next application was in the Springfield District, therefore, Chairman Murphy relinquished the chair to Secretary Harsel.

//

S02-II-F1 - OUT-OF-TURN PLAN AMENDMENT - To consider proposed revisions to the Adopted Comprehensive Plan concerning land in the northeast corner of the intersection of Monument Drive and Fair Lakes Parkway (Tax Map 46-3 ((1)) 36E). The subject property is planned for office mixed-use up to 1.0 FAR and a linear park along Monument Drive. The proposed Plan amendment would add an option for multifamily residential use. SPRINGFIELD DISTRICT. PUBLIC HEARING.

Ms. Alison Kriviskey, Planning Division, Department of Planning and Zoning, presented the staff report, a copy of which is in the date file. She noted that staff recommended approval of the amendment.

Secretary Harsel called for speakers from the audience.

Antonio Calabrese, Esquire, with Cooley Godward LLP, stated that the type of high quality residential development being proposed for the subject site was perfectly suited to areas like Fairfax Center, which had a mixed-use environment. He said the development, if approved, would result in a substantial reduction in traffic, and at the request of Commissioner Murphy and the Fairfax Center Land Use Committee, a transportation management program was being developed. He noted that affordable dwelling units would be provided in accordance with the provisions of the Zoning Ordinance.

There were no further speakers. The Commission had no comments or questions and staff had no closing remarks, therefore, Secretary Harsel closed the public hearing and recognized Commissioner Murphy for action on this application. (A verbatim excerpt is in the date file.)

//

Commissioner Murphy MOVED THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THAT IT ADOPT THE OUT-OF-TURN PLAN AMENDMENT S02-II-F1 WITH THE LANGUAGE DATED APRIL 24, 2003.

Commissioner Hall seconded the motion which carried unanimously with Commissioner Byers not present for the vote; Commissioners Alcorn and DuBois absent from the meeting.

//

The meeting was adjourned at 12:31 a.m.
Peter F. Murphy, Jr., Chairman
Suzanne F. Harsel, Secretary

Audio and video recordings of this meeting are available at the Planning Commission Office, 12000 Government Center Parkway, Suite 330, Fairfax, Virginia 22035.

Minutes by: Linda B. Rodeffer

Approved on: March 31, 2005

Linda B. Rodeffer, Clerk to the
Fairfax County Planning Commission